S.B.CIVIL WRIT PETITION NO.3778/2004

Pratap Singh
V.
State of Rajasthan & Ors.

Date of Order :: 16th January, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.N.Upadhyay, for the petitioner.
Mr. Shyam Ladrecha, Additional Government Advocate.

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The petitioner entered in the services of the Government of Rajasthan being appointed as Sub Inspector in Rajasthan Police on 1.2.1953. By an order dated 18.2.1965 the petitioner was sent on deputation to Intelligence Bureau, Ministry of Home Affairs, Government of India for a period of five years at first instance. While on deputation under an order dated 15.5.1969 a promotion was accorded to the petitioner as Assistant Central Intelligence Officer Gr.I.

On achieving the age of superannuation the petitioner stood retired from service on 31.7.1984, however, uptil the date of retirement the petitioner remained on deputation with intelligence bureau in capacity of the Assistant Central Intelligence Officer Gr.I. At the time of retirement the basic pay of the petitioner was of Rs.1550/- in the pay scale of Rs.820-1750, as it was fixed w.e.f. 1.9.1981 as a consequent to revision of the pay scales under the

Rajasthan Civil Services (Revised) Pay Scales Rules, 1983 (hereinafter referred to as “the Rules of 1983”).

The grievance of the petitioner is that the respondents computed his pension by treating sum of Rs.1150/- as the last pay drawn by him though he was getting the basic pay of Rs.1550/- at the time of his retirement. The contention of the petitioner is that the pension is required to be computed on basis of the emoluments last drawn and that was of Rs.1550/-, therefore, the pension is required to be determined on basis of that only.

In reply to the writ petition it is stated by the respondents that the petitioner was on deputation with Intelligence Bureau, Ministry of Home Affairs, Government of India and promotion accorded to him was in officiating capacity, therefore, the pension is required to be computed on basis of the pay pertaining to substantive post. Reliance is also placed on the terms of deputation admissible to police personnels while on deputation with the intelligence bureau laid down by Government of Rajasthan, placed on record as Anx.R/4.

Heard the counsel for the parties.

The document Anx.R/4 prescribes term of deputation admissible to police personnels while on

deputation and according to para 1(a) of that an Assistant Central Intelligence Officer Gr.I shall be entitled to get the pay and allowances as given to the inspectors in Rajasthan Police. The Assistant Central Intelligence Officer Gr.II is entitled to get the pay and allowances equivalent for the post of Sub Inspector in Rajasthan Police. In view of the terms of deputation admissible to police personnels while on deputation to intelligence bureau as laid down by Government of Rajasthan an Assistant Central Intelligence Officer Gr.I is required to be given pay and allowances equivalent to the post of Inspector. The petitioner was admittedly holding the post of Assistant Central Intelligence Officer Gr.I since 1965, therefore, even according to the terms prescribed his pay is required to be fixed in the pay scale pertaining to the post of Inspector in Rajasthan Police. The pay scale applicable to the post of Inspector under the Pay Rules of 1983 was of Rs.820-1550 and in the pay scale aforesaid fixation of the petitioner's pay was made w.e.f. 1.9.1981. The pay pertaining to the post of Inspector, therefore, was rightly given to the petitioner w.e.f. 1.9.1981. On the date of retirement in the pay scale referred above the petitioner was having basic pay of Rs.1550/-. It is well settled that under Rule 250 of the Rajasthan Service Rules, 1951 (hereinafter referred to as “the Rules of 1951”) the emoluments for determining pension, the last pay drawn by an incumbent is

required to be taken into consideration. The last pay drawn by the petitioner at the time of his retirement was of Rs.1550/-. The pension of the petitioner, therefore, was required to be determined by computing his emoluments by treating Rs.1550/- as his basic pay. The respondents by determining pension of the petitioner with basic pay of Rs.1150/- acted in contravention of the provision of Rule 250 of the Rules of 1951 and also acted contrary to the terms of deputation admissible to police personnels while on deputation to the intelligence bureau as prescribed in the document Anx.R/4.

In view of it, this petition for writ deserves acceptance. The same, therefore, is allowed. The respondents are directed to determine pension of the petitioner by taking into consideration Rs.1550/- as last pay drawn by him.

The pension in the terms above is required to be determined within a period of three months from today. The arrears accruing to the petitioner as a consequence of re-determination of pension by considering Rs.1550/- as basic pay shall be paid with interest @ 8% per annum.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.